

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:

LEAL, NANCY E.,

Former Employee and
Institution-Affiliated Party
of:

FIRST FEDERAL SAVINGS BANK
OF NEW MEXICO
ROSWELL, NEW MEXICO

RE: OTS Order No. DAL-94-28

Dated: July 13, 1994

ORDER OF PROHIBITION

WHEREAS, Nancy E. Leal ("LEAL") has executed a Stipulation and Consent to Entry of an Order of Prohibition ("Stipulation") on July 8 _____, 1994; and

WHEREAS, LEAL by her execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition ("Order") by the Office of Thrift Supervision ("OTS"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §1818(e).

NOW THEREFORE, IT IS ORDERED that:

1. LEAL is prohibited from further participation, in any manner, in the conduct of the affairs of First Federal Savings Bank of New Mexico, Roswell, New Mexico, and any successor institution, holding company, subsidiary, and/or service corporation thereof.

2. LEAL shall not hold any office in, or participate in any manner in the conduct of the affairs of any Federally regulated depository institution or any of the other entities that are described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. §1818(e)(7)(A), without the prior written approval of OTS (acting through its Director or an authorized representative thereof) and, the "appropriate Federal financial institutions regulatory agency" for the Federally regulated depository institution which is involved. Due to the operation of Section 8(e)(6) of the FDIA, 12 U.S.C. §1818(e)(6), conduct prohibited by this Order, without the said prior written approval of the OTS and the "appropriate Federal banking agency", also includes, without limitation: (1) soliciting, procuring, transferring, attempting to transfer, voting, or the attempting to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. §1818(e)(7)(A); and (2) voting for a director, or serving as an institution-affiliated party.

3. The Stipulation is made a part hereof and is incorporated herein by this reference.

4. This Order is subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C. §1818(j), and shall become effective on the date it is issued, as shown in the caption above.

Nancy E. Leal
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5. LEAL shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

THE OFFICE OF THRIFT SUPERVISION
By:

A handwritten signature in cursive script, appearing to read "F. R. Casteel", is written over a horizontal line.

Frederick R. Casteel
Midwest Regional Director

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:

LEAL, NANCY E.,

Former Employee and
Institution-Affiliated Party
of:

FIRST FEDERAL SAVINGS BANK
OF NEW MEXICO
ROSWELL, NEW MEXICO

RE: OTS Order No. DAL-94-28

Dated: July 12, 1994

STIPULATION AND CONSENT TO ENTRY
OF AN ORDER OF PROHIBITION

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Nancy E. Leal ("LEAL"), former employee and institution-affiliated party of First Federal Savings Bank of New Mexico, Roswell, New Mexico ("First Federal" or the "Institution") that the OTS is of the opinion that grounds exist to initiate an administrative prohibition proceeding against LEAL pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e).¹

WHEREAS, LEAL desires to cooperate with the OTS to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, but

1. All references in this Stipulation and Consent and the Order of Prohibition to the U.S.C. are as amended.

admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) First Federal, at all times relevant hereto, was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1462(4). Accordingly, First Federal was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) LEAL, as a former employee of First Federal, is deemed to be an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within six (6) years of the date hereof (see 12 U.S.C. § 1818(i)(3)).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. §1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an enforcement proceeding against institution-affiliated parties. Therefore, LEAL is subject to the authority of the OTS to initiate and maintain a prohibition proceeding against her pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

2. OTS Findings of Fact. The OTS finds that during the four-month period from on or about February, 1993, through May, 1993, LEAL, without authorization, misapplied \$905.00 of the funds of First Federal to her own use. As a result of her actions, LEAL (1) engaged in a violation of the law or breached her fiduciary duty of honesty to First Federal; and (2) First

Federal suffered a financial loss or she received a financial benefit or other gain; and (3) the violation of law or breach of fiduciary duty involved personal dishonesty on her part.

3. Consent. LEAL consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). She further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued by the OTS under the authority of Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Upon its issuance by the Regional Director or designee for the Midwest Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers. LEAL waives the following:

(a) the right to be served with a written notice of the OTS's charges against her (referred to as a Notice of Intention to Prohibit) (see Section 8(e) of the FDIA);

(b) the right to an administrative hearing of the OTS's charges against her (see Section 8(e) of the FDIA); and

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.

6. Indemnification. LEAL shall neither cause nor permit First Federal (or any successor institution, holding company, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense for any legal (or other professional

expenses) incurred relative to the negotiation and issuance of the Order of Prohibition, nor obtain any indemnification (or other reimbursement) from the Institution (or any successor institution, holding company, subsidiary or service corporation thereof) with respect to such amounts. Any such payments received by or on behalf of LEAL in connection with this action shall be returned to First Federal (or the successor institution, holding company, subsidiary or service corporation thereof).

7. Other Government Actions Not Affected.

(a) LEAL acknowledges and agrees that the consent to the entry of the Order is for the purpose of resolving this prohibition action only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of LEAL that arise pursuant to this action or otherwise, and that may be or have been brought by any other government entity other than the OTS.

(b) By signing this Stipulation and Consent to Entry of an Order of Prohibition, LEAL agrees that she will not assert this proceeding, her consent to the entry of the Order, and/or the entry of the Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other federal or state governmental entity.

8. Acknowledgment of Criminal Sanctions. LEAL acknowledges that Section 8(j) of the FDIA, 12 U.S.C. §1818(j), sets forth criminal penalties for knowing violations of the Order.

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WHEREFORE, LEAL executes this Stipulation and Consent to Entry of an Order of Prohibition, intending to be legally bound hereby.

By:

Accepted by:
Office of Thrift Supervision

Nancy E. Leal
Nancy E. Leal

Frederick R. Casteel
Frederick R. Casteel
Midwest Regional Director

Dated: July 8, 1994

Dated: 7-12-94

* * * * *

ACKNOWLEDGEMENT

State of _____)

County of _____)

On this _____ day of _____, 1994, before me, the undersigned notary public, personally appeared Nancy E, Leal and acknowledged her execution of the foregoing STIPULATION AND CONSENT TO ENTRY OF AN ORDER OF PROHIBITION.

Notary Public

My Commission expires:
